

ESTTA Tracking number: **ESTTA417974**

Filing date: **07/05/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	MasterCard International Incorporated
Granted to Date of previous extension	07/06/2011
Address	2000 Purchase Street Purchase, NY 10577-2405 UNITED STATES

Attorney information	Paul J. Reilly Baker Botts LLP 30 Rockefeller Plaza, 44th Fl New York, NY 10112 UNITED STATES paul.reilly@bakerbotts.com, suzanne.hengl@bakerbotts.com, nytmdpt@bakerbotts.com, marcia.woodall@bakerbotts.com Phone:212.408.2634
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Applicant Information

Application No	85190334	Publication date	03/08/2011
Opposition Filing Date	07/05/2011	Opposition Period Ends	07/06/2011
Applicant	Postrel, Richard 5244 North Bay Road Miami Beach, FL 33140 UNITED STATES		

Goods/Services Affected by Opposition


Class 035. All goods and services in the class are opposed, namely: Promoting the goods and services of others by means of the issuance of loyalty rewards cards; Providing incentive award programs for customers and employees through the distribution of prepaid stored value cards for the purpose of promoting and rewarding loyalty


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1186117	Application Date	04/25/1980
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Registration Date	01/12/1982	Foreign Priority Date	NONE
Word Mark	MASTERCARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1980/02/11 First Use In Commerce: 1980/02/11 Financial Services-Namely, Providing Bank Card Services		

U.S. Registration No.	1257853	Application Date	04/02/1980
Registration Date	11/15/1983	Foreign Priority Date	NONE
Word Mark	MASTERCARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1980/02/11 First Use In Commerce: 1980/02/11 Financial Services-Namely, Providing Bank Card Services		

U.S. Registration No.	1292519	Application Date	09/29/1982
Registration Date	08/28/1984	Foreign Priority Date	NONE
Word Mark	MASTERCARD		
Design Mark			


Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1980/12/09 First Use In Commerce: 1980/12/09 Financial Services-Namely, Assisting Its Members in the Sale of Travelers' Cheques, Integrated Funds Management Programs, and Money Order Services

U.S. Registration No.	1604606	Application Date	10/12/1989
Registration Date	07/03/1990	Foreign Priority Date	NONE

Word Mark	MASTERCARD
Design Mark	

Description of Mark	NONE
Goods/Services	Class 016. First use: First Use: 1980/12/00 First Use In Commerce: 1980/12/00 PRINTED MATTER AND PUBLICATIONS, NAMELY BANK CARDS, PAMPHLETS, BROCHURES, NEWSLETTERS AND MAGAZINES OF A FINANCIAL NATURE

U.S. Registration No.	1738276	Application Date	02/19/1991
Registration Date	12/08/1992	Foreign Priority Date	NONE

Word Mark	MASTERCARD
Design Mark	

Description of Mark	The mark consists of the words "MASTERCARD" with a globe design.
Goods/Services	Class 016. First use: First Use: 1990/02/00 First Use In Commerce: 1990/02/00 printed matter and publications; namely, credit cards and debit cards, pamphlets, brochures, newsletters and magazines of a financial nature Class 036. First use: First Use: 1990/02/00 First Use In Commerce: 1990/02/00 financial services; namely, providing credit card, debit card, cash disbursement, and transaction authorization and settlement services

U.S. Registration No.	2212783	Application Date	10/09/1997
Registration Date	12/22/1998	Foreign Priority	NONE

		Date	
Word Mark	MASTERCARD		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1980/02/00 First Use In Commerce: 1980/02/00 Magnetic encoded cards; magnetic encoded card readers; telecommunications equipment, namely point of transaction terminals; and computer software for transmitting, displaying and storing transaction, identification and financial information for use in the financial services, banking and telecommunications industries		

U.S. Registration No.	2841454	Application Date	05/23/2001
Registration Date	05/11/2004	Foreign Priority Date	NONE
Word Mark	MASTERCARD REWARDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2002/10/00 First Use In Commerce: 2002/10/00 [FINANCIAL SERVICES, NAMELY] BANKING [AND CREDIT CARD SERVICES; PROVIDING CREDIT CARD, DEBIT CARD,] CHARGE CARD AND STORED VALUE PREPAID CARD SERVICES; [PROVIDING ELECTRONIC FUNDS AND CURRENCY TRANSFER SERVICES, ELECTRONIC PAYMENTS SERVICES RELATING TO CREDIT AND DEBIT CARDS;] CHECK VERIFICATION SERVICES; ADVISORY SERVICES RELATING TO ALL THE AFORESAID SERVICES]		

U.S. Registration No.	2870383	Application Date	05/23/2001
Registration Date	08/03/2004	Foreign Priority Date	NONE
Word Mark	MASTERCARD REWARDS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1997/11/00 First Use In Commerce: 1997/11/00 PROMOTING THE SALE OF GOODS AND SERVICES OF OTHERS BY MEANS OF [COUPONS,] DISCOUNTS, AND INCENTIVES GENERATED THROUGH A PROGRAM AWARDED USERS OF CREDIT AND DEBIT CARDS		

U.S. Registration No.	2512434	Application Date	12/01/2000
Registration Date	11/27/2001	Foreign Priority Date	NONE
Word Mark	MASTERCARD MARKETACCESS		

Design Mark	MASTERCARD MARKETACCESS
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1998/06/00 First Use In Commerce: 1998/06/00 Promoting the sale of goods and services of others by means of coupons, discounts, and incentives generated in connection with the use of credit and debit cards, conducting programs involving discounts and incentives on the purchase of goods and services of others via a global computer network

U.S. Registration No.	2598547	Application Date	10/06/1999
Registration Date	07/23/2002	Foreign Priority Date	NONE
Word Mark	MASTERCARD BUSINESS SAVINGS		
Design Mark	MASTERCARD BUSINESS SAVINGS		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1999/09/00 First Use In Commerce: 1999/10/00 financial services, [namely banking and credit services;] providing payment card services, namely * , * credit card, debit card [, charge card] and stored value prepaid card services [; stored value electronic purse services; electronic funds and currency transfer services; electronic payments services, namely electronic processing and transmission of bill payment data; prepaid telephone calling card services; cash disbursement services; transaction authorization and settlement services; travel insurance underwriting and/or travel insurance brokerage services; cheque verification services; issuing and redemption services all relating to travellers' cheques and travel vouchers; financial analysis and consultation relating to all the aforesaid services]		

U.S. Registration No.	3591736	Application Date	10/11/2006
Registration Date	03/17/2009	Foreign Priority Date	NONE
Word Mark	MASTERCARD COMMERCE COALITION		

Design Mark	<p>MASTERCARD COMMERCE COALITION</p>
Description of Mark	NONE
Goods/Services	<p>Class 035. First use: First Use: 2006/05/01 First Use In Commerce: 2006/05/01 THE BRINGING TOGETHER, FOR THE BENEFIT OF OTHERS, OF A VARIETY OF GOODS AND SERVICES, ENABLING CUSTOMERS TO CONVENIENTLY VIEW AND PURCHASE THOSE GOODS AND SERVICES FROM TELECOMMUNICATIONS OR FROM A INTERNET WEB SITE; PROMOTING THE SALE OF GOODS AND SERVICES OF OTHERS BY MEANS OF COUPONS, REWARDS, DISCOUNTS, ADVERTISEMENTS, AND INCENTIVES GENERATED IN CONNECTION WITH THE USE OF CREDIT AND DEBIT CARDS</p>


U.S. Registration No.	1572346	Application Date	12/15/1986
Registration Date	12/19/1989	Foreign Priority Date	NONE
Word Mark	MASTERASSIST		
Design Mark	<p>MASTERASSIST</p>		
Description of Mark	NONE		
Goods/Services	<p>Class 036. First use: First Use: 1986/06/00 First Use In Commerce: 1986/06/00 PROVIDING MEDICAL INSURANCE COVERAGE FOR TRAVELERS Class 038. First use: First Use: 1986/06/00 First Use In Commerce: 1986/06/00 EMERGENCY MESSAGE TRANSMITTAL SERVICES FOR TRAVELERS Class 039. First use: First Use: 1986/06/00 First Use In Commerce: 1986/06/00 PROVIDING MEDICAL TRANSPORTATION SERVICES FOR TRAVELERS Class 042. First use: First Use: 1986/06/00 First Use In Commerce: 1986/06/00 PROVIDING INFORMATION ON HOSPITALS AND MEDICAL FACILITIES FOR TRAVELERS; [CONVALESCENT HOTEL SERVICES FOR TRAVELERS,] ARRANGING FOR THE REPLACEMENT OF LOST OR STOLEN TRAVEL TICKETS</p>		


U.S. Registration No.	1580432	Application Date	02/13/1989
Registration Date	01/30/1990	Foreign Priority Date	NONE
Word Mark	MASTERLEGAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 LEGAL REFERRAL SERVICES FOR CARDHOLDERS Class 042. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 LEGAL ASSISTANCE SERVICES FOR CARDHOLDERS		

U.S. Registration No.	1594527	Application Date	02/08/1989
Registration Date	05/01/1990	Foreign Priority Date	NONE
Word Mark	MASTERRENTAL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 ADMINISTERING CAR RENTAL INSURANCE FOR CARDHOLDERS Class 037. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 AUTOMOTIVE ROADSIDE ASSISTANCE SERVICES FOR CARDHOLDERS		

U.S. Registration No.	1597804	Application Date	02/13/1989
Registration Date	05/22/1990	Foreign Priority Date	NONE
Word Mark	MASTERTRIP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 CASH REPLACEMENT SERVICES RENDERED BY CREDIT CARD		

	<p>Class 038. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 EMERGENCY MESSAGE TRANSMITTAL SERVICES FOR TRAVELERS</p> <p>Class 039. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 TRAVEL INFORMATION SERVICES RENDERED BY CREDIT CARD</p> <p>Class 042. First use: First Use: 1988/04/07 First Use In Commerce: 1988/04/07 ARRANGING FOR THE REPLACEMENT OF LOST OR STOLEN TRAVEL TICKETS AND TRAVEL DOCUMENTS RENDERED BY CREDIT CARD</p>
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U.S. Registration No.	1604948	Application Date	11/08/1989
Registration Date	07/03/1990	Foreign Priority Date	NONE
Word Mark	MASTERCOVERAGE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1989/05/22 First Use In Commerce: 1989/05/22 PROVIDING LIABILITY PROTECTION FOR CREDIT CARD ISSUERS AND THEIR CORPORATE CLIENTS		

U.S. Registration No.	1649713	Application Date	07/18/1990
Registration Date	07/02/1991	Foreign Priority Date	NONE
Word Mark	MASTERCOM		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 038. First use: First Use: 1988/05/00 First Use In Commerce: 1988/05/00 communication services, namely transmission of data through the use of electronic image processing		

U.S. Registration No.	1682471	Application Date	11/17/1989
Registration Date	04/07/1992	Foreign Priority Date	NONE
Word Mark	MASTER ROADASSIST		

Design Mark	MASTER ROADASSIST
Description of Mark	NONE
Goods/Services	Class 036. First use: First Use: 1990/03/09 First Use In Commerce: 1990/03/09 CREDIT CARD SERVICES FOR USE IN PURCHASING EMERGENCY AUTOMOTIVE ASSISTANCE

U.S. Registration No.	1708663	Application Date	10/02/1991
Registration Date	08/18/1992	Foreign Priority Date	NONE
Word Mark	MASTERASSIST MEDICAL PROTECTION		
Design Mark	MASTERASSIST MEDICAL PROTECTION		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1990/03/00 First Use In Commerce: 1990/03/00 providing medical insurance coverage for travelers Class 038. First use: First Use: 1990/03/00 First Use In Commerce: 1990/03/00 emergency message transmittal services for travelers Class 039. First use: First Use: 1990/03/00 First Use In Commerce: 1990/03/00 providing medical transportation services for travelers Class 042. First use: First Use: 1990/03/00 First Use In Commerce: 1990/03/00 providing information on hospitals and medical facilities for travelers, convalescent hotel services for travelers, arranging for the replacement of lost or stolen travel tickets		

U.S. Registration No.	2151140	Application Date	07/10/1995
Registration Date	04/14/1998	Foreign Priority Date	NONE
Word Mark	MASTERCARD MATCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1995/12/00 First Use In Commerce: 1995/12/00 financial software providing means for banks to identify problem merchants in payment transactions Class 036. First use: First Use: 1995/12/00 First Use In Commerce: 1995/12/00 financial services, for identifying problem merchants in payment transactions for others		

U.S. Registration No.	2182243	Application Date	06/19/1997
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Registration Date	08/18/1998	Foreign Priority Date	NONE
Word Mark	MASTERPURCHASE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1988/11/07 First Use In Commerce: 1988/11/07 arranging for extended warranty coverage for items purchased with a credit card		

U.S. Registration No.	2487725	Application Date	06/24/1994
Registration Date	09/11/2001	Foreign Priority Date	NONE
Word Mark	MASTERMONEY		
Design Mark	<p style="text-align: center;">MASTERMONEY</p>		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1994/12/00 First Use In Commerce: 1994/12/00 financial services, namely providing debit card services		

Attachments	73259545#TMSN.gif (1 page)(bytes) 73256484#TMSN.gif (1 page)(bytes) 73392886#TMSN.gif (1 page)(bytes) 73830812#TMSN.gif (1 page)(bytes) 74140100#TMSN.gif (1 page)(bytes) 76174101#TMSN.gif (1 page)(bytes) 75800078#TMSN.gif (1 page)(bytes) 77018362#TMSN.jpeg (1 page)(bytes) 73635288#TMSN.gif (1 page)(bytes) 73780848#TMSN.gif (1 page)(bytes) 73779834#TMSN.gif (1 page)(bytes) 73780847#TMSN.gif (1 page)(bytes) 73837395#TMSN.gif (1 page)(bytes) 74079515#TMSN.gif (1 page)(bytes) 74003314#TMSN.gif (1 page)(bytes) 74208876#TMSN.gif (1 page)(bytes) 74541357#TMSN.gif (1 page)(bytes) MASTEREWARDSopposition.pdf (9 pages)(226655 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Paul J. Reilly/
Name	Paul J. Reilly

Date	07/05/2011
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

IN THE MATTER OF APPLICATION

Applicant: Richard Postrel
Mark: MASTERREWARDS
Serial No.: 85190334
Filed: December 3, 2010
Published in
the Official Gazette: March 8, 2011

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MASTERCARD INTERNATIONAL	:	
INCORPORATED,	:	
	:	
Opposer,	:	Opposition No. __, __
	:	
v.	:	
	:	
RICHARD POSTREL,	:	
	:	
Applicant.	:	
	x	

NOTICE OF OPPOSITION

Opposer, MasterCard International Incorporated, a Delaware corporation located and doing business at 2000 Purchase Street, Purchase, New York 10577-2509 (hereinafter referred to as “MasterCard” or “Opposer”) believes that it will be damaged by the registration of Application Serial No. 85/190,334 (hereinafter the “application-in-opposition” unless otherwise specified), filed on December 3, 2008 by Richard Postrel (hereinafter “Applicant” unless otherwise specified) for the designation MASTERREWARDS for “promoting the goods and services of others by means of the issuance of loyalty rewards cards; providing incentive award programs for customers and employees through the distribution of prepaid stored value cards for the purpose of promoting and rewarding loyalty” in connection with services in International

Class 35 and having been previously granted an extension of time to oppose, hereby opposes the same.

The specific grounds for this opposition are as follows:

1. Opposer is an incorporated association of banks and other domestic and foreign financial institutions whose purpose is, inter alia, to facilitate various financial services transactions, including the interchange of funds through payment cards, on a worldwide basis. Among the many services Opposer offers are banking, credit and payment card services, reward services promoting the sale of goods and services of others, electronic funds and currency transfer services, electronic payment services, and network services to facilitate financial payments.

2. Opposer has been in the payment card business since 1966 and has become well and favorably known to members of the public, as well as to members of the banking and financial services community, as a leader in the field of payment cards and related services and products. Opposer initially owned and administered the celebrated MASTER CHARGE payment card program and it now owns and administers the MASTERCARD payment card program.

3. There are over 975 million MASTERCARD payment cards in circulation worldwide, which have been issued by approximately 22,000 licensed member financial institutions. Approximately one-third of these cards are currently in circulation in the United States. Opposer's MASTERCARD payment cards are accepted at approximately 31.7 million locations, including retail merchants, automated teller machines, and cash advance locations, and over \$2.7 trillion dollars worth of purchases or cash advances were transacted in 2010 alone using a payment card bearing the MASTERCARD mark. Each retail establishment, ATM and

cash advance location that accepts MasterCard-branded payment cards is required to post decals bearing the MASTERCARD mark at the point of sale. During each of the last three years, MasterCard has expended in excess of \$700,000,000 per year in advertising and promoting its MASTERCARD payment card services and other related products and services.

4. In addition to its payment card offerings and for many years prior to the filing date of the application at issue, MasterCard has provided in connection with its name and mark MASTERCARD various services, including credit card, debit card, charge card, stored value prepaid card, and reward services promoting the sale of goods and services of others. Through its rewards program, MasterCard allows customers to choose a card with structured rewards that appeal to their interests. By using their cards, customers amass points that can then be applied toward obtaining rewards of their choice. Rewards include, but are not limited to, gasoline discounts, airline tickets, hotel discounts, movie tickets, concert tickets, and cash-back.

5. The mark MASTERCARD has been used continuously by Opposer since 1980 in connection with service/product offerings. Opposer has obtained numerous federal registrations for its MASTERCARD mark, including:

<u>Mark</u>	<u>Registration No.</u>
MASTERCARD	1,186,117
MASTERCARD	1,257,853
MASTERCARD	1,292,519
MASTERCARD	1,604,606
MASTERCARD	1,738,276
MASTERCARD	2,212,783

6. As a result of enormous advertising, promotion, card usage, point of sale signage and other extensive usage, the MASTERCARD mark has become one of the most renowned and famous brands in the United States and represents an asset of enormous goodwill

of inestimable value to Opposer. Applicant's alleged mark is also similar to Opposer's following marks:

<u>Mark</u>	<u>Registration No.</u>
MASTERCARD REWARDS	2,841,454
MASTERCARD REWARDS	2,870,383
MASTERCARD MARKETACCESS	2, 512, 434
MASTERCARD BUSINESS SAVINGS	2,598,547
MASTERCARD COMMERCE COALITION	3,591,736

7. Opposer is also the owner of a large portfolio of other registered marks that employ the term "MASTER", including but not limited to the following:

<u>Mark</u>	<u>Registration No.</u>
MASTERASSIST	1,572,346
MASTERLEGAL	1,580,432
MASTERRENTAL	1,594,527
MASTERTRIP	1,597,804
MASTERCOVERAGE	1,604,948
MASTERCOM	1,649,713
MASTER ROADASSIST	1,682,471
MASTERASSIST MEDICAL PROTECTION	1,708,663
MASTERCARD MATCH	2,151,140
MASTERPURCHASE	2,182,243
MASTERMONEY	2,487,725

8. The foregoing registrations are valid and subsisting, uncanceled and unrevoked, and in full force and effect and many are incontestable pursuant to 15 U.S.C. § 1065. Hereinafter MasterCard's foregoing marks, including those registered and/or used in commerce, are referred to individually and/or collectively as the "MASTERCARD Marks".

9. Since long prior to Applicant's filing of the application-in-opposition and any alleged date of first use of the purported mark at issue, MasterCard has used many of its MASTERCARD Marks, including, but not limited to, MASTERCARD REWARDS and/or

many of its family of “MASTER” marks, in connection with a wide range of financial products and services and other related or complementary products and services, including, but not limited to, credit cards, debit cards, prepaid/stored value cards and reward services promoting the sale of goods and services of others.

10. Given MasterCard’s long, extensive and widespread use, advertising, promotion and registration of the MASTERCARD Marks, including, but not limited to, MASTERCARD REWARDS and/or its family of “MASTER” marks, on and in association with a wide range of financial products and services and other related or complementary products and services, consumers and the trade have become accustomed to associating marks containing MASTERCARD and/or the component “MASTER”, including the mark MASTERCARD REWARDS, in the financial and banking services industries as well as on related products and services, including credit cards, debit cards, and reward services promoting the sale of goods and services of others, with MasterCard.

11. On information and belief, on or about December 3, 2010, Applicant, Richard Postrel, an individual and United States citizen, having a place of residence at 5244 North Bay Road, Miami Beach, Florida 33140, filed Application Serial No. 85/190,334 to register the mark MASTEREWARDS in connection with the following goods/services: “promoting the goods and services of others by means of the issuance of loyalty rewards cards; providing incentive award programs for customers and employees through the distribution of prepaid stored value cards for the purpose of promoting and rewarding loyalty,” in International Class 35.

12. Registration of Applicant’s alleged mark which is the subject of the application-in-opposition is barred by the provisions of Section 2(d) of the Trademark Act of

1946, 15 U.S.C. § 1052(d), because the said mark consists of or comprises a mark which so resembles a mark previously registered in the United States Patent and Trademark Office and/or used in the United States by Opposer and not abandoned, as to be likely, when used in connection with the alleged services of Applicant, to cause confusion, mistake or deception.

13. There is no issue as to priority. Applicant's alleged intent to use application is subsequent to Opposer's use of its MASTERCARD Marks, including, but not limited to, MASTERCARD REWARDS and its family of "MASTER" marks, the dates of registration and/or the filing dates of the foregoing applications to register the MASTERCARD Marks. Applicant's alleged mark, MASTEREWARDS, and Opposer's MASTERCARD Marks, including, but not limited to, MASTERCARD REWARDS and/or its family of "MASTER" marks, are confusingly similar. On information and belief, the products/services that Applicant intends to offer in connection with its alleged mark are similar, if not identical, complementary or of a related nature to the products/services offered by MasterCard in connection with the MASTERCARD Marks, including, but not limited to, MASTERCARD REWARDS marks and/or many of its family of "MASTER" marks.

14. Applicant's alleged mark which is the subject of the application-in-opposition so resembles Opposer's previously used and registered MASTERCARD Marks, including, but not limited to, MASTERCARD REWARDS and/or many of its family of "MASTER" marks, as to be likely, when used in connection with Applicant's products/services, to cause confusion, to cause mistake or to deceive and/or constitutes a false representation that Applicant's services are approved by MasterCard or that Applicant's services are connected or affiliated with Opposer, or that Applicant's mark which is the subject of the application-in-opposition is a version of Opposer's marks and/or products/services, thereby deceiving the

consumer, causing confusion or mistake and causing damage to Opposer within the meaning of 15 U.S.C. §1063.

15. The likelihood of confusion, mistake or deception that would also arise from concurrent use and registration of the applied for mark with MasterCard's use and registration of its MASTERCARD Marks is that: (a) persons are likely to believe that Applicant's products/services have their source in Opposer; and/or (b) Applicant and its products are in some way legitimately connected or affiliated with, sponsored, approved, endorsed or licensed by Opposer when, in fact, they are not. Accordingly, registration of Applicant's mark which is the subject of the application-in-opposition is barred by the provisions of Section 2(d) of the Trademark Act of 1946, 15 U.S.C. § 1052(d).

16. Further, registration and use of Applicant's alleged mark MASTERWARDS which is the subject of the application-in-opposition would likely dilute the distinctiveness of MasterCard's famous and highly distinctive mark MASTERCARD and/or its family of "MASTER" marks, which became highly distinctive and famous long prior to the filing date of Applicant's application-in-opposition or any alleged first use of MASTERWARDS, in violation of 15 U.S.C. § 1125(c). Accordingly, Applicant's alleged mark MASTERWARDS is not entitled to registration under 15 U.S.C. § 1052(f) and Section 13 of the Lanham Act, 15 U.S.C. § 1063.

17. Opposer will be damaged by the issuance of the registration sought by Applicant, because such registration would support and assist Applicant in the confusing, misleading, deceptive and/or dilutive use of Applicant's alleged mark which is the subject of the application-in-opposition, and would give color of exclusive statutory rights to Applicant in violation and derogation of the prior and superior rights of Opposer.

18. In view of the foregoing, issuance of a registration to Applicant for its claimed mark which is the subject of the application-in-opposition would be damaging to Opposer's common law marks and federal registrations within the meaning of Section 13 of the Lanham Act, 15 U.S.C. §1063.

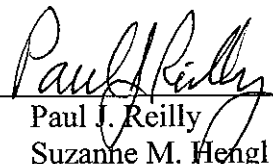
WHEREFORE, Opposer prays that this opposition be sustained in its favor, that registration be denied to Applicant on its Application Serial No. 85/190,334 and that the Board grant all further relief in favor of Opposer that is necessary and just in these circumstances.

Respectfully submitted,

BAKER BOTTS LLP

Dated: July 5, 2011

By:


Paul J. Reilly
Suzanne M. Hengl
Lauren Emerson
30 Rockefeller Plaza
New York, NY 10112-0228
(212) 408-2634
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below a true and complete copy of the foregoing, NOTICE OF OPPOSITION, was served on Applicant's counsel of record via Federal Express courier, in an envelope with sufficient postage addressed to:

Anthony R Barkume, Esq.
Barkume & Associates, P.C.
20 Gateway Lane
Manorville NY 11949
Phone Number: 6312599099

Dated: July 5, 2011

By: 
Paul J. Reilly